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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
10/679,203	10/02/2003	Andrew Mark Gutman	1004-229	4568		
47654	7590	03/10/2009	EXAMINER			
BAINWOOD HUANG & ASSOCIATES LLC 2 CONNECTOR ROAD WESTBOROUGH, MA 01581				HARRELL, ROBERT B		
ART UNIT		PAPER NUMBER				
2442						
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03/10/2009		PAPER				

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/679,203	GUTMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Robert B. Harrell	2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10 December 2008 and prior.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-73 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-73 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 02 October 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>20031002</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|   | 6) <input type="checkbox"/> Other: _____                          |

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1. Claims 1-73 are presented for examination.
2. A substitute specification is required in light of the Certificate of Corrections to date. The applicant is reminded to enter the information from the Certificate of Corrections into the substitute specification as though part of the original patent (i.e., entered with no brackets or underlining).
3. The applicant is required to submit a new Information Disclosure Statement citing all Prior Art cited on the face of the parent United States Patent and those cited on FORM PTO-1449 in the parent United States Patent even if not printed on the face of the parent United States Patent (i.e., see FORM PTO-1449s filed in the parent United States Patent on 06 February 2001, 09 November 2000, 27 March 2000, 13 December 1999, 06 August 1999, 15 March 1999, as examples).
4. Claim 28 indicates that claim has been amended; however, there is no actual amendment in claim 28. Same for claim 30, as an example.
5. The applicant is reminded that amendments are not governed by 37 C.F.R. 1.121 but by 37 C.F.R. 1.173 (i.e., the claim listing should only have claims amended, with brackets and/or underlined text, or cancelled). The claims presented in this application fail to comply with the provisions of 37 CFR 1.173. A supplemental paper correctly amending the reissue application is required. That is, all changes from the original United States Patent must continue to comply with 37 C.F.R. 1.173 with respect to underlines and brackets for claims, also for the Abstract, and specification (Certificate of Corrections are considered part of the original Patent). See also MPEP 1451. In other words, the applicant must submit a new claim listing only containing only the amended claims and any cancelled claims. Also, *the applicant is required for each limitation of each claim to point to the corresponding support within the specification for the newly added claimed limitation(s)*. The applicant should review the whole of MPEP 1400 directed to reissues.
6. The applicant may wish to use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy (i.e., page 1 of this application needs to be updated with current related application information (i.e., now abandoned, now pending, now patent and the patent number associated with that related application)), assurance of proper use for Trademarks ™, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., provide proper antecedent basis for "the" and "said" within each claim). Minor typographical errors could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.

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7. The reissue oath/declaration filed with this application is defective because it fails to identify all the errors, to date, which is relied upon to support the reissue application. Each bracket (deletion of text) or underlining of text in the claims would indicate an error being corrected, yet not all such changes are mentioned in the reissue oath/declaration. For example, and not limiting, the reissue oath/declaration stipulates that claims 32-37 depend from reissue claim 31 and are thus allowable. While limitations are inherited in dependent claims, there is no indication of what errors these claims correct nor why they are required nor is there any indication, in a separate paper, that shows where in the specification there is support for the newly added limitations in these claims, for example. See 37 CFR 1.175(a)(1) and MPEP § 1414.

8. The applicant is hereby informed that a cumulative Oath/Declaration pointing out each error, in compliance with the rules as outlined in MPEP 1414, 1414.01, 1444, can be held in abeyance until all claims are indicated allowable per MPEP 1444 (II) which states, in part, "Once the reissue oath/declaration is found to comply with 37 CFR 1.175(a), it is not required, nor is it suggested, that a new reissue oath/declaration be submitted together with each new amendment and correction of error in the patent. During the prosecution of a reissue application, amendments are often made and additional errors in the patent are corrected. A supplemental oath/declaration need not be submitted with each amendment and additional correction. Rather, it is suggested that the reissue applicant wait until the case is in condition for allowance, and then submit a cumulative supplemental reissue oath/declaration pursuant to 37 CFR 1.175(b)(1).".

9. Claims 1-73 are rejected as being based upon a defective reissue oath/declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

10. 35 U.S.C. 101 reads as follows:

*Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.*

11. Claims 1-73 are rejected under 35 U.S.C. 101 because the claimed invention, in light of the specification, encompasses non-statutory subject matter since such reads on (encompass) software or program per se' (In re Beauregard (CAFC) 35 USPQ2d 1383) and MPEP 2106 (New EXAMINATION GUIDELINES FOR COMPUTER-RELATED INVENTIONS). Per the method claims, even though drafted as "A method", each of the recited elements encompass their software or program per se' equivalent thus, the whole of the method encompasses pure software or program per se'; unlike "A method stored on hardware computer readable storage medium" or "A method executing" {not "executed" that is past tense} "on a hardware computer". Also, while a hardware device claim, with functional acts, may inherently encompass a corresponding method, the same does not hold in the reverse since a corresponding method is broader in scope and can encompass a scope void of any hardware. As for the system claims, such encompass only software or program per se' equivalents; unlike "A hardware system"; the applicant is reminded that an Operating System is software and/or program per se'. Per the apparatus claims,

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since there are such things as software apparatus, such encompasses a carrier wave or transmission medium; unlike a “**hardware** apparatus”. The applicant is reminded that this area of Law has been considerably changed since the date of issue of the parent United States Patent.

12. The following is a quotation of the second paragraph of 35 U.S.C 112:

*The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.*

13. **Claims 1-73 are rejected under 35 U.S.C 112, second paragraph**, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The scope of meaning of the claim language is not clear since it cannot be clearly ascertained if the claims encompass only hardware, or software, or a combination since there is no clear recital of actual hardware.

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

**A person shall be entitled to a patent unless -**

**(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;**

15. **Claims 1-73 are rejected under 35 U.S.C. 102 (e)** as being anticipated by Sitaraman et al. (United States Patent Number: US 6,263,369 ).

16. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW through Public PAIR (as found on <http://portal.uspto.gov/external/portal/pair>)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature *as the whole of the reference is cited* and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

17. Per claim 31, Sitaraman taught a method (e.g., see figure 4) for managing network access (e.g., see Abstract) to a data communications network (e.g., see figure 2 (72, 73, and 110)), said method comprising:

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- a) maintaining a central database (e.g., see figure 2 (74)) coupled to the data communications network ;
- b) maintaining at least a first authentication, authorization and accounting (AAA) service at a first point of presence (POP) (e.g., see figure 2 (76)) of the data communications network and a second AAA service at a second PoP of the data communications network (e.g., see figure 2 (78)) ;
- c) configuring a database (e.g., see figure 2 (84) and col. 4 (lines 46-48)) associated with the first AAA service from the central database by transporting information from the central database over the data communications network to the database associated with the first AAA service (e.g., see Abstract and figure 4); and
- d) configuring a database (e.g., see figure 2 (96) and col. 4 (lines 46-48)) associated with the second AAA service from the central database by transporting information from the central database over the data communications network to the database associated with the second AAA service (e.g., see Abstract and figure 4).

18. Per claim 32 and claim 33, Sitaraman further taught periodically updating the database associated with the first AAA service and updating the database associated with the second AAA, each, from the central database by transporting information from the central database over the data communications network to the database associated with the first AAA service (e.g. see Abstract and col. 7 (line 26-et seq.)).

19. Per claim 34, claim 35, claim 36, and claim 37 see figure 2 (95 and 97) for the protocol gateway (e.g., see col. 8 (line 17-et seq.)) used in parsing a user's domain (e.g. see col. 6 (line 39-et seq.)) to route a request to the first AAA and if such user is not present in the local cache, proxy the roaming user now assigned an IP address from a DHCP (e.g., see col. 6 (line 21-et seq.)).

20. Per claims 1-30 and 38-73, these claims do not teach or defined above the correspondingly rejected claims given above, and are thus rejected for the same reasons given above. However, per claim 38, figure 2 (76) and figure 2 (78), combined, was a first point of presence relative to the second point of presence as shown in figure 2 (80), and such first access point had several AAA servers, specifically elements 84 and 96 of figure 2. Also, as shown above, per the applicant's first claim, Sitaraman also taught a method for managing network access to a data communications network (e.g., see figure 2 (72, 73, and 110)), said method comprising maintaining a central database (e.g., see figure 2 (74)) maintaining at least one authentication, authorization and accounting (AAA) service (e.g., see figure 2 (112)) at a point of presence (POP) (e.g., see figure 2 (76)) of the data communications network; and configuring a database associated with the AAA service from the central database (e.g., see above and Abstract), wherein said configuring includes publishing information (e.g., see Abstract and figure 4) from said central database on an information bus (e.g., see col. 5 (line 8-et seq.)) as at least one event, said AAA service subscribing to said event so as to receive said published information so as to thereby update its associated database (e.g., see figure 4). The NAS, of the applicant's claims, are reached by Sitaraman in col. 4 (lines 25-32) and publishing covered in figure 4 (236), while

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col. 2 (line 38-et seq.) showed that the network included a bus upon which events were transmitted.

21. **A shortened statutory period for response to this action is set to expire 3 (three) months and 0 (zero) days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned (see MPEP 710.02, 710.02(b)).**

22. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Thursday from 5:30 am to 2:00 pm.

23. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell, can be reached on (571) 272-3868. The fax phone number for all papers is (571) 273-8300.

24. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Robert B. Harrell/  
ROBERT B. HARRELL  
PRIMARY EXAMINER  
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